

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Megabus West, LLC dba Megabus for authority to operate as a scheduled passenger stage corporation between points in Los Angeles, Burbank, Oakland, San Jose, San Francisco, and Sacramento and to establish a Zone of Rate Freedom.

Application 13-02-026
(Filed February 20, 2013)

D E C I S I O N G R A N T I N G A P P L I C A T I O N**Summary**

This decision grants the application of Megabus West, LLC, doing business as Megabus, a Nebraska limited liability company, pursuant to Pub. Util. Code § 1031 et seq., for a Certificate of Public Convenience and Necessity to operate as a Passenger Stage Corporation, as defined in Pub. Util. Code § 226, and to establish a Zone of Rate Freedom, pursuant to Pub. Util. Code § 454.2.¹

Authority Requested

Megabus West, LLC, doing business as (dba) Megabus (Applicant) requests authority to operate as a scheduled Passenger Stage Corporation (PSC) to transport passengers and their baggage between Los Angeles and San Francisco with intermediate stops in Burbank, San Jose and Oakland, and between San Francisco and Sacramento. Applicant will do business under the trade name Megabus.

¹ Statutory references are to the Public Utilities Code, unless otherwise indicated.

Applicant states that an affiliate called Pacific Coast Sightseeing Tours and Charters, Inc. (Pacific Coast) is currently providing these services under the dba name Megabus by the authority granted in Decision (D).12-10-032 as PSC with Certificate of Public Convenience and Necessity number PSC-29151. After this application is granted, Applicant will begin providing the services described herein, and Pacific Coast will cease providing such services.

Applicant, like Pacific Coast, is a subsidiary of Coach USA. Coach USA has determined that it will be more efficient for the services currently provided by Pacific Coast under the Megabus name to be operated independently by a separate entity focused on providing only those services rather than be operated by Pacific Coast, which is primarily focused on charter operations and passenger stage operations serving theme parks in the Los Angeles area.

Applicant states the services described in this application will be provided using the same buses, drivers and managers that are currently used by Pacific Coast to provide these services. Upon approval of this application, the relevant employees of Pacific Coast will be transferred to Applicant; the current vehicle leases will be terminated and the vehicles will be re-leased by Coach Leasing, Inc, a Coach USA subsidiary, to Applicant.

Applicant indicates that it has the financial resources to initiate and sustain the proposed service. Because Applicant has not been conducting operations, it does not have a recent financial statement. Any financial support Applicant needs, however, will come from its ultimate parent, Stagecoach Group, plc. Financial statements for Stagecoach Group, plc, for the year ending April 30,

2012, are attached to the application as Exhibit F. They disclose revenues of approximately \$4.09 billion and assets of approximately \$2.64 billion.²

Proposed Fare Structure

Under the Applicant's pricing policy, not all passengers will pay the same fares. A limited number of \$1 fares will be offered on all bus trips. Applicant proposes to sell a limited number of tickets priced below its regular fares based on a computerized yield management system. In addition, depending on how far in advance they book their travel and other advance sales rules and regulations, passengers may pay fares that are greater than the minimum of \$1 and less than or equal to the maximum fares shown in Exhibit D. This method of pricing is consistent with discount provisions of General Order (GO) 158-A, Part 8, and was approved by the Commission in D.07-06-033.

These standard proposed fares are \$45 between Los Angeles and San Francisco (\$44 for intermediate points Oakland and San Jose) and \$15 between San Francisco and Sacramento. Standard proposed fares are \$44 between Burbank and San Francisco (\$43 for intermediate points Oakland and San Jose). Holiday peak fares are \$70 between Los Angeles and San Francisco (\$69 for intermediate points Oakland and San Jose) and \$20 between San Francisco and Sacramento. Holiday peak fares are \$69 between Burbank and San Francisco (\$68 for intermediate points Oakland and San Jose).

Zone of Rate Freedom

Applicant requests authority to establish a zone of rate freedom (ZORF) of 30% above and below the proposed maximum fares. It states that at all times it

² The financial statements are shown in UK pounds. The conversion factor used is 1.00 UK pound = 1.58 U.S. dollars.

will be constrained by competition from other bus companies, airlines, and private automobiles. In these circumstances, applicant believes the proposed ZORF is reasonable and will reduce regulatory burdens should fares need to be adjusted.

Discussion

Applicant has demonstrated that it possesses the financial and operational ability to initiate and sustain the proposed intercity transportation service. It will provide travelers with an alternative to existing services on these heavily traveled routes. We will grant Applicant's request for a PSC certificate.

Applicant will also be authorized to establish the requested ZORF. Applicant will operate in a competitive environment that should result in pricing its service at a reasonable level. The requested ZORF is not inconsistent with the ZORFs held by other PSCs.

Notice of filing of the application appeared in the Commission's Daily Calendar on March 12, 2013. Applicant notified the affected cities, counties, and transit districts of the application.

In Resolution ALJ 176-3311 dated March 21, 2013, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protest has been received. Given this status, public hearing is not necessary, and it is not necessary to alter the preliminary determinations made in Resolution ALJ 176-3311.

Waiver of Comment Period

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Section 311(g)(2) of the Public Utilities Code

and Rule 14.6(c)(2) of the Commission's Rules of Practice and Procedure, the otherwise applicable 30-day period for public review and comment is waived.

Safety Considerations

In order to be authorized to commence operations as a PSC, the Applicant must comply with the following requirements in order to protect public safety: Proof of insurance pursuant to General Order Series 101, compliance with the controlled substance and alcohol testing program pursuant to Pub. Util. Code §1032.1 and General Order Series 158, and enrollment in the pull notice system as required by Section 1808.1 of the Vehicle Code.

Assignment of Proceeding

Emory J. Hagan, III is the assigned Examiner in this proceeding.

Findings of Fact

1. The application requests authority to operate as a scheduled PSC to transport passengers and their baggage between San Francisco and Sacramento, and between Los Angeles and San Francisco, with intermediate stops at Burbank, San Jose and Oakland.
2. Public convenience and necessity requires the proposed service.
3. Applicant proposes to sell a limited number of tickets priced below its regular fares based on a computerized yield management system.
4. GO 158-A, Part 8 allows PSCs to publish discount provisions in their tariffs.
5. Applicant's regular fares are reasonable.
6. Applicant's proposed sale of a limited number of tickets at a discount to the regular fare is not an unreasonable practice.

7. Applicant requests authority to establish a ZORF of 30% above and below the proposed regular fares, as shown in the application

8. Applicant will compete with PSCs and other means of passenger transportation.

9. No protest to the application has been filed.

10. A public hearing is not necessary.

11. A California Environmental Quality Act review is not required for this decision because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment. Once Applicant's certificate is granted, Pacific Coast will cease providing such services.

Conclusions of Law

1. Public convenience and necessity has been demonstrated and the application should be granted.

2. The proposed fare structure should be authorized, provided that discounted tickets based on a yield management system should only be sold in advance by telephone or other electronic device, or over the Internet.

3. The request for a ZORF should be granted because the ZORF is fair and reasonable.

4. Before applicant changes any fares under the ZORF authorized below, applicant should give this Commission at least ten days' notice. The tariff should show the high and low ends of the ZORF and the then currently effective fare between each pair of service points.

5. Because the matter is uncontested, the decision should be effective on the date it is signed.

6. Only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify these rights at any time.

O R D E R

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Megabus West, LLC dba Megabus, a Nebraska limited liability company, authorizing it to operate as a Passenger Stage Corporation (PSC), as defined in Pub. Util. Code § 226, to transport passengers and their baggage between the points and over the routes set forth in Appendix PSC-30650, subject to the conditions contained in the following paragraphs.

2. Megabus West, LLC dba Megabus, shall:

- a. File a written acceptance of this certificate within 30 days after this order is effective.
- b. Establish the authorized service and file tariffs and timetables within 120 days after this order is effective.
- c. File tariffs on or after the effective date of this order. The tariff may become effective ten days or more after the effective date of this order, provided that the Commission and the public are given not less than ten days' notice.
- d. Comply with General Orders Series 101 and 158, and the California Highway Patrol safety rules.
- e. Comply with the controlled substance and alcohol testing certification program pursuant to Pub. Util. Code § 1032.1 and General Order Series 158.
- f. Remit to the Commission the Transportation Reimbursement Fee required by Pub. Util. Code § 423 when notified by mail to do so. Failure to comply with this filing will result in suspension and/or revocation of authority.

- g. Comply with Pub. Util. Code §§ 460.7 and 1043, relating to the Workers' Compensation laws of this state.
- h. Enroll all drivers in the Pull Notice System as required by Vehicle Code § 1808.1.

3. Megabus West, LLC dba Megabus (Applicant), is authorized to sell tickets with discounted fares based on its yield management system provided such tickets are sold in advance by telephone or other electronic device, or over the Internet. Applicant shall describe the availability, terms, and conditions of discounted tickets in its tariff.

4. Megabus West, LLC dba Megabus, is authorized under Pub. Util. Code § 454.2 to establish a zone of rate freedom of 30% above and below the proposed fares shown in the application.

5. Megabus West, LLC dba Megabus, shall file a Zone of Rate Freedom (ZORF) tariff with the Commission and the public in accordance with the application at least ten days before the effective date of the tariff. The ZORF shall expire unless exercised within 120 days after the effective date of this order.

6. Megabus West, LLC dba Megabus, may make changes within the zone of rate freedom by filing amended tariffs on not less than ten days' notice to the Commission and to the public. The tariff shall include the authorized maximum and minimum fares and the fare to be charged between each pair of service points.

7. In addition to posting and filing tariffs, Megabus West, LLC dba Megabus, shall post notices explaining fare changes in its terminals and passenger-carrying vehicles. Such notices shall be posted at least ten days before the effective date of the fare changes and shall remain posted for at least 30 days.

8. Megabus West, LLC dba Megabus (Applicant), is authorized to begin operations on the date that the Safety and Enforcement Division mails a notice

to applicant that its evidence of insurance and other documents required by Ordering Paragraph 2 have been filed with the Commission and that the California Highway Patrol has approved the use of Applicant's vehicles for service.

9. The Certificate of Public Convenience and Necessity to operate as Passenger Stage Corporation (PSC) PSC-30650, granted herein, expires unless exercised within 120 days after the effective date of this order.

10. The Application is granted as set forth above.

11. This proceeding is closed.

This order is effective today.

Dated _____, at San Francisco, California.

CERTIFICATE

OF

PUBLIC CONVENIENCE AND NECESSITY

AS A PASSENGER STAGE CORPORATION

PSC-30650

Showing passenger stage operative rights, restrictions,
limitations, exceptions, and privileges.

All changes and amendments as authorized by
the Public Utilities Commission of the State of California
will be made as revised pages or added original pages.

Issued under authority of Decision _____, dated _____, of the Public
Utilities Commission of the State of California in Application 13-02-026.

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SECTION I. GENERAL AUTHORIZATIONS, RESTRICTIONS,
LIMITATIONS, AND SPECIFICATIONS.

Megabus West, LLC dba Megabus, a Nebraska limited liability company, by the certificate of public convenience and necessity granted by the decision noted in the foot of the margin, is authorized to transport passengers and their baggage on a scheduled basis between the points described in Section II, over the routes described in Section III, subject, however, to the authority of this Commission to change or modify this authority at any time and subject to the following provisions:

- a. When a route description is given in one direction, it applies to operation in either direction unless otherwise indicated.
- b. Service will be operated only at the points described in Section II and over the routes described in Section III. A description of all the stop points and the arrival and departure times from such points shall be indicated in the timetable filed with the Commission.
- c. Routes may be joined at common service points.
- d. This certificate does not authorize the holder to conduct any operation on the property of any airport unless such operation is authorized by the airport authority involved.

SECTION II. SERVICE AREA.

Cities of Los Angeles, Burbank, San Francisco, Oakland, San Jose, and Sacramento.

SECTION III. ROUTE DESCRIPTION.

Route 1 - Commencing from San Francisco, then over the most convenient streets and highways to Sacramento.

Route 2 - Commencing from Los Angeles, then over the most convenient streets and highways to San Francisco. Service may be provided via Burbank, Oakland and/or San Jose.